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of British Columbia

Developing an Internal Complaint Mechanism

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From the Ombudsman

I am pleased to release this guideline for developing an Internal Complaint Mechanism. I am a firm believer in the value of such mechanisms and strongly encourage Public Authorities to develop them.

Shortly after my appointment as Ombudsman, I established a working group within our Office to work on devising a set of guidelines to assist authorities in both the development of an internal review process and the review of existing processes. We contacted a number of public authorities to obtain copies of existing processes. We also consulted with public authorities and other Ombudsman Offices to obtain their views and comments. I am very pleased with the results of our work and feel confident that this document will serve both the authorities it is designed to assist and the public.

I would like to thank the members of our internal committee: Dale Bryant, Dorothy Hayward, Roberta Hughes, Diane Johnston, Jo-Anne Kern, and Elizabeth Nicholls for a job well done.

I would also like to thank those individuals from other agencies who took the time to review the proposed guidelines and provide comments which were incorporated into the final document.

We hope this document will prove helpful both to those authorities who are considering establishing an internal review process and to those authorities who may wish to review their existing internal review processes. I know that my staff would be pleased to assist in any way they can.

Developing an Internal Complaint Mechanism

An important part of the mandate of the Office of the Ombudsman is to ensure that public agencies are acting fairly. One aspect of fairness is the quality of service provided by the public agency. When members of the public are unhappy about the service they receive, they naturally look for the most effective means of addressing the issue. This often involves contact with external agencies, such as MLA constituency offices, cabinet ministers, the media, the Information and Privacy Commissioner and, of course, this office. In many cases, however, these complaints could have been resolved without the involvement of an external agency if an internal process existed to respond to these complaints. If public agencies do not have appropriate internal mechanisms for responding to complaints, this important opportunity may be lost.

An internal complaint mechanism (ICM) gives agencies a second chance to provide quality service. It allows them the opportunity to correct errors before external agencies, politicians or the media become involved. At the same time, data gleaned from complaints may highlight opportunities to improve policies, programs or service delivery.

The purpose of this document is to offer some guidance for developing an ICM. This document will also identify and discuss some of the factors you may wish to consider in designing a system that will best meet the needs of the people you serve and the needs of your organization.

"...data gleaned from complaints may highlight opportunities to improve policies, programs or service delivery"

Our office recognizes that public agencies vary considerably in size and scope. Large agencies may have the resources to create separate complaint departments. Very small agencies may be limited to having front-line staff handle complaints. Accordingly, we have identified six basic elements of an ICM which are fundamental to its success and are a necessary part of every ICM. These fundamental elements apply regardless of the size of your agency or its budget. They are discussed under the heading "Fundamental Elements."

We have also identified a number of other factors that may affect the choices you make in designing an ICM. These are discussed under the heading "Other Considerations."

Lastly, under the heading "A Final Check" we have provided a checklist to assist you in ensuring that you have captured each of the fundamental elements identified by our office.

"limits must be identified in the written material you provide to the public in order to ensure that complainants have appropriate and realistic expectations of your process."

Fundamental Elements of an ICM

1. *Define "complaint"*

Define the complaints your agency will and will not accept.

Your agency must decide what type of complaints it will accept. Will there be limits on the nature of the complaints you will review? If so, these limits must be identified in the written material you provide to the public in order to ensure that complainants have appropriate and realistic expectations of your process. For example, some agencies do not have the legal authority to reconsider the merits of the decisions they have made. However, these agencies can consider and respond to complaints about other aspects of service delivery, such as delay or rudeness. A description of any statutory appeal or other review options that may be available should also be provided in your written material.

Your agency must also decide what forms of communication will activate your ICM. For example, must all complaints be in writing? Must the complainant use a special form? Must the complaint be addressed to a particular person? The written material that your agency produces to describe the ICM should include these points. If your agency responds differently to oral complaints than to written complaints, an explanation outlining the differences must be included in your written material.

2. *Define your process*

It is essential to define your process, ensuring that it includes the following elements:

- Your process must provide an opportunity for each complaint to be considered and an opportunity for a response to be provided for each complaint.
- Your process must provide an opportunity for all relevant information presented by all affected parties to be considered before reaching a decision.
- Your process must allow for a decision to be reached in a timeframe suitable to the nature of the complaint.
- Your process must require that reasons for a decision be provided in sufficient detail to suit the nature of the complaint.
- Your process must give appropriate consideration to confidentiality and privacy.

3. *Document your process*

It is essential that you have a clearly written and well-publicized description of your process, available to both staff and the public.

"clearly outline the steps that must be taken to make a complaint and the steps that your agency will take in response."

Documented procedures are an integral part of the ICM process for both the public and for the staff. In some agencies, this may be the same document; other agencies may want to present the information in separate formats for these two audiences. For the public, the document should clearly outline the steps that must be taken to make a complaint and the steps that your agency will take in response. For staff, the document

should clearly outline the steps that will be taken internally once the complaint is received. These steps should include written documentation of the following: a summary of the complaint, the outcome following consideration of the complaint by your agency, and communication of the outcome, with reasons, to the complainant.

"create an ICM process that is flexible enough to respond to differing needs and demands of complainants and to adapt to new and/or special situations."

4. *Making Exceptions*

It is essential to create an ICM process that is flexible enough to respond to differing needs and demands of complainants and to adapt to new and/or special situations.

There may be cases where your agency's need for an efficient and clearly delineated process may conflict with the needs of the complainant. For example, a complaint may involve issues that should be considered by senior management. In such a case, it may be a waste of your resources and the complainant's time to have the complaint considered at several lower levels before it reaches senior management. Your ICM should give complaint-handlers sufficient discretion to make exceptions where necessary.

5. *Accessibility*

It is essential that your ICM is accessible to the public.

As a public agency, you will have established standards to ensure that your programs are accessible to the public. The standards of accessibility for your ICM should be, at a minimum, equal to those for your other programs and services.

6. *Data Collection*

Your ICM is a valuable tool for collecting information about individual complaints and complaint trends and for providing feedback to your agency.

Recording and analyzing the types of complaints, as well as the outcomes of those complaints, can provide information to agencies on how to improve efficiency, provide higher quality service and foster improved relationships with the public. A plan for how this data will be collected and how it will be reviewed is an important component of an effective ICM.

Other Considerations

Many other factors may affect the design of your ICM. You may find it helpful to be aware of the following points in making design choices.

Point-of-Entry

In our experience, most complaint-handling models fall into two distinct categories:

- those where complaints are reviewed by a separate department (or individual);
- those where complaints are reviewed by several levels of progressively senior staff.

"resources can be a significant determining factor in the model you choose."

The nature of the complaint should be the most important consideration in determining your point-of-entry in the ICM. It may be more efficient and effective to have less complex complaints heard and dealt with where they originate, while more complex decisions may require review by a senior manager or committee that is removed from the original decision. Resources can be a significant determining factor in the model you choose.

An issue often related to the complexity of the decision is the need, or perceived need, for an "independent" reviewer. One of the most significant factors that leads complainants to contact external agencies or the media is the feeling that they did not or could not get a fair review of their complaint. An ICM must be credible to complainants, who often feel they will not get a fair review if the complaint is reviewed where the alleged error originated. Having a separate complaint-handler or department may address concerns of this kind. It is important, however, not to describe your complaint-handler as "independent" unless such independence exists.

"deciding who should have the authority to make changes will depend on the nature and importance of the issue under review..."

Scope of Complaints

If your agency often receives complaints about the legislation, policies and procedures under which it operates, you may wish to consider how you will address such complaints. If you do not intend to review complaints about legislation, policies and procedures, make this clear to complainants at the outset. Although your agency will not have the capacity to amend the legislation under which you operate, you may wish to consider tracking complaint trends, which may reflect needed amendments to legislation. If your agency will accept complaints about the policies and procedures under which it operates, you will need to consider how such complaints will be handled, and by whom.

Authority of Complaint-Handlers

You may decide that your ICM will review complaints about a wide range of matters, including the merits of decisions, policies, and service quality. An agency's review of a complaint may lead to the conclusion that a decision should be changed or that an exception should be made to established policy. Deciding who should have the authority to make changes will depend on the nature and importance of the issue under review and on the type of review mechanism involved.

If the issue concerns a matter of considerable significance to your organization,

you may want to ensure that changes are made only with the approval of senior management. Where less significant decisions are concerned, it may be appropriate to allow the complaint reviewer to authorize a change.
Your decision on this issue may also depend upon whether the complaint is being reviewed close to the source of the original decision, or whether it is being reviewed by a separate complaints department or reviewer. If you have opted for a separate complaints department, you may wish to consider whether it is appropriate for the complaint reviewer to have the power to alter decisions unilaterally. Depending on the nature of your organization, it may be more appropriate to require complaint reviewers to consult with the original decision-makers before making changes, or to limit their role to making recommendations for change to the original decision-maker.

Whatever system you choose, your ICM should define how such decisions are to be made, and by whom.

Interaction of the ICM with Other Mechanisms

If your agency adjudicates disputes, your governing legislation may determine whether and how such decisions may be reviewed. For example, the legislation may provide that the decision is final and binding, meaning that it cannot, under normal circumstances, be reconsidered by the original decision-maker. Alternatively, the legislation may provide for an appeal to a statutory appeal board that can reconsider the issues on the merits.

Although your ICM may not be able to address complaints about the merits of decisions, this does not mean that such agencies do not require an ICM. Our experience has been that complaints are often made about other issues, such as delay, scheduling of hearings, unclear processes and procedures, response to communications and staff conduct. You may wish to create an ICM to respond to a limited range of issues. Again, limitations on what you will review need to be clearly explained in your documentation.

"limitations on what you will review need to be clearly explained in your documentation."

Success of the ICM

Commitment of the agency to its ICM is critical to its success. This commitment must be demonstrated at all levels of your organization. Senior management must embrace and adhere to the principle that dealing effectively with complaints from the public is an integral part of the service provided. All staff should be encouraged to have a positive attitude towards complaints. Acknowledging errors or mistakes should be viewed by the agency as a strength that provides opportunities to identify potential areas to improve services and systems.

"commitment of the agency to its ICM is critical to its success."

A Final Check

The degree to which agencies vary makes it impossible to provide a template for developing an ICM. This document provides you with a discussion of those elements that we consider fundamental to an effective ICM and suggests other elements that you may wish to consider in designing or reviewing your ICM. This information is selected from a cross-section of perspectives relating to internal complaint processes. We have also drawn on our experience in receiving complaints about agencies that do not have internal review processes or where internal review processes exist but do not adequately address concerns of complainants.

The following checklist is provided to ensure that the ICM you design, or the ICM that is in use by your agency, has incorporated each of the elements that we have identified as fundamental to a successful ICM.

Checklist

- ✓ Have you defined the complaints your agency will and will not accept?
- ✓ Have you defined your process?
- ✓ Does your process provide the opportunity for each complaint to be considered and the opportunity for a response to be provided for each complaint?
- ✓ Does your process provide for all relevant information to be considered?
- ✓ Does your process provide for a decision to be reached in a timeframe suitable to the nature of the complaint?
- ✓ Does your process provide for reporting the reasons for a decision, sufficiently detailed to suit the nature of the complaint?
- ✓ Does your process give appropriate consideration to confidentiality and privacy?
- ✓ Do you have a written description of your process available to both staff and the public?
- ✓ Does your ICM allow exceptions to the process, if required, to adapt to new and/or special situations?
- ✓ Does the process meet or exceed your agency's expectations for accessibility to its services?
- ✓ Does the ICM have a process for documenting the nature of each complaint and its outcome for the purposes of providing feedback to the agency?